

AMENDED IN SENATE MAY 2, 2007
AMENDED IN SENATE MARCH 29, 2007

SENATE BILL

No. 518

Introduced by Senator Migden

February 22, 2007

An act to add Article 1.5 (commencing with Section 224.70) to Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, relating to juveniles.

LEGISLATIVE COUNSEL'S DIGEST

SB 518, as amended, Migden. Juveniles: Youth Bill of Rights.

(1) Existing law authorizes a peace officer to take a minor that the officer has reasonable cause to believe is within the jurisdiction of the juvenile court, either as a dependent child or as a ward of the court, into temporary custody without a warrant, as specified. Existing law provides procedures for processing the minor thereafter. Existing law requires the release within 48 hours of a minor who is taken into temporary custody by a peace officer or probation officer, as specified, unless a petition to declare him or her a dependent child or ward of the court has been filed. Existing law requires the juvenile court, upon the appearance of a minor at a detention hearing, to inform the minor, and his or her parents or guardians, of the reasons why the minor was taken into custody, the nature of the juvenile court proceedings, and their right to representation by counsel.

This bill would enact the "Youth Bill of Rights" in connection with children in the custody of the *Department of Corrections*, Division of Juvenile-Justice *Facilities*, or a local juvenile facility, as defined. The bill would enumerate 15 specific rights. The bill would require ~~every~~ *each facility of the Division of Juvenile-Justice-facility Facilities* and

each local juvenile facility to provide each child who is placed in the facility with an age and developmentally appropriate orientation that includes an explanation of the rights, and would require a local juvenile facility to post a listing of the rights. The bill would require the Division of Juvenile ~~Justice Facilities~~ and local juvenile facilities to provide care, placement, and services to children in their custody without discriminating on the basis of actual or perceived race, ethnic group identification, ancestry, national origin, color, religion, sex, sexual orientation, gender identity, mental or physical disability, or HIV status. The bill would require the Office of the ~~Ombudsperson~~ *Ombudspersons* of the Division of Juvenile Justice to take various actions in connection with the rights, including disseminating information, investigating complaints, providing information regarding complaints it does not investigate, compiling *data* and making *it* available ~~data~~ to the Legislature, and providing a toll-free telephone number. The bill would further require that office, in consultation with specified groups, to develop standardized, age-appropriate information in connection with these rights by July 1, 2008. The bill would require certain state and local employees to be trained on the right of a child in custody to have fair and equal access to all available services, placement, care, treatment, and benefits, as specified. The bill would require the Department of Corrections and Rehabilitation and the Corrections Standards Authority to adopt regulations to implement and monitor compliance with these provisions. The bill would require each *facility of the* Division of Juvenile ~~Justice Facilities~~ and *each* local juvenile facility to adopt a policy prohibiting harassment and discrimination in conformance with these provisions. By increasing the duties of local agencies, this bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) ~~Widespread harassment and discrimination based on race, ethnicity, religion, sexual orientation, gender identity, or other factors has been reported within state and local juvenile facilities, camps, and ranches.~~

~~(b)~~

(a) Wards in the custody of the *Department of Corrections and Rehabilitation*, Division of Juvenile ~~Justice Facilities~~, and youth in local juvenile facilities are harmed by discrimination based on actual or perceived race, ethnic group identification, ancestry, national origin, color, religion, sex, sexual orientation, gender identity, mental or physical disability, or HIV status.

~~(c)~~

(b) Youth are placed in the custody of the Division of Juvenile ~~Justice Facilities~~ in order to provide them an opportunity for rehabilitation. Rehabilitation opportunities include the provision of educational, therapeutic, and other necessary services to ensure that these youth can become successful and productive members of their communities.

~~(d)~~

(c) All children in juvenile facilities have the constitutional right to a safe and secure environment.

~~(e)~~

(d) The Division of Juvenile ~~Justice Facilities~~ is committed to treating all people with dignity, respect, and consideration and demonstrating behavior which is fair, honest, and ethical.

~~(f)~~

(e) There is a need to inform youth in the custody of the Division of Juvenile ~~Justice Facilities~~ and local juvenile facilities about their rights and train officers about their legal responsibilities ~~for the following reasons:~~.

(1) ~~Many children in juvenile facilities are unaware of their rights regarding discrimination and harassment.~~

(2) ~~Many staff members have not received training to prevent or respond to discrimination and harassment. This training is particularly lacking with respect to discrimination and harassment~~

1 on the basis of actual and perceived gender identity and sexual
2 orientation.

3 ~~(3) Many local juvenile facilities are not effectively addressing~~
4 ~~discrimination and harassment, particularly with respect to~~
5 ~~discrimination and harassment based on actual and perceived~~
6 ~~gender identity and sexual orientation.~~

7 ~~(4) Many children in state and local facilities do not know how~~
8 ~~to file a discrimination or harassment complaint.~~

9 ~~(5) State and local facilities are responding to complaints about~~
10 ~~discrimination and harassment in an inconsistent manner.~~

11 ~~(g)~~

12 (f) Initial and ongoing training for county juvenile correctional
13 officers, state juvenile correctional officers and administrators,
14 Corrections Standards Authority staff, and juvenile probation
15 officers is crucial to enable all persons involved in providing care,
16 rehabilitation, and treatment services to children in juvenile
17 facilities to fulfill their responsibilities to provide safe and
18 nondiscriminatory environments.

19 SEC. 2. Article 1.5 (commencing with Section 224.70) is added
20 to Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions
21 Code, to read:

22
23 Article 1.5. Youth Bill of Rights
24

25 224.70. For the purposes of this article:

26 (a) “Camp” means a juvenile camp, ranch, forestry camp, or
27 boot camp established in accordance with Section 881 of the
28 Welfare and Institutions Code, to which minors made wards of
29 the court on the grounds of fitting the description in Section 602
30 of the Welfare and Institutions Code may be committed.

31 (b) “Child” means a person under 18 years of age, and includes
32 a person under 18 years of age whose case is under the jurisdiction
33 of the adult criminal court.

34 (c) “Committed” means placed in a jail or juvenile facility
35 pursuant to a court order for a specific period of time, independent
36 of, or in connection with, other sentencing alternatives.

37 (d) “Juvenile facility” means a juvenile hall, juvenile home,
38 ranch or camp, forestry camp, regional youth education facility,
39 boot camp, or special purpose juvenile hall.

1 (e) “Juvenile hall” means a county facility designed for the
2 reception and temporary care of minors detained in accordance
3 with the provisions of this chapter.

4 (f) “Regional facility” means a facility serving two or more
5 counties operated pursuant to a memorandum of understanding or
6 a joint powers agreement identifying the terms, conditions, rights,
7 responsibilities, and financial obligations of all parties.

8 (g) “Special purpose juvenile hall” means a county facility used
9 for the temporary confinement of a minor, not to exceed 96 hours,
10 prior to transfer to a full-service juvenile facility or release.

11 224.71. It is the policy of the state that all children in the
12 custody of the *Department of Corrections and Rehabilitation*,
13 Division of Juvenile Justice Facilities, or in a local juvenile facility,
14 shall have the following rights:

15 (a) To live in a safe, healthy, and comfortable environment
16 where he or she is treated with respect.

17 (b) To be protected from physical, sexual, emotional, or other
18 abuse, or corporal punishment.

19 (c) To receive adequate and healthy food, water, and clothing
20 that is adequate and clean.

21 (d) To receive medical, dental, vision, and mental health
22 services.

23 (e) To be free of the administration of medication or chemical
24 substances, unless authorized by a physician.

25 (f) To contact family members, unless prohibited by court order,
26 and social workers, attorneys, court-appointed special advocates
27 (CASA), and probation officers.

28 (g) To have fair and equal access to all available services,
29 placement, care, treatment, and benefits, and to not be subjected
30 to discrimination or harassment on the basis of actual or perceived
31 race, ethnic group identification, ancestry, national origin, color,
32 religion, sex, sexual orientation, gender identity, mental or physical
33 disability, or HIV status.

34 (h) To be protected from punitive interference with the daily
35 functions of living, such as eating or sleeping.

36 (i) To contact ~~the Division of Juvenile Justice Ombudsperson~~
37 *legal counsel, ombudspersons, and other advocates* regarding
38 violations of rights, to speak to representatives of this office
39 confidentially, and to be free from threats or punishment for
40 making complaints.

1 (j) To make and receive confidential telephone calls from
2 attorneys and send and receive unopened mail from attorneys.

3 (k) To participate in religious services and activities of his or
4 her choice.

5 (l) To not be denied food as a disciplinary measure.

6 (m) To be provided with sufficient personal hygiene items.

7 (n) To attend school classes.

8 (o) To attend all court hearings pertaining to them.

9 224.72. (a) Every Division of Juvenile ~~Justice~~ *Facilities* facility
10 and local juvenile facility shall provide each child who is placed
11 in the facility with an age and developmentally appropriate
12 orientation that includes an explanation of the rights of the child,
13 as specified in Section 224.71, and that addresses the child's
14 questions and concerns.

15 (b) Every local juvenile facility shall post a listing of the rights
16 provided by Section 224.71. The Department of Corrections and
17 Rehabilitation, Office of the Ombudsman, shall design posters and
18 provide the posters to each *Division of Juvenile Facilities* facility
19 subject to this subdivision. The posters *in facilities of the Division*
20 *of Juvenile Facilities* shall include the toll-free telephone number
21 *of the Office of the Ombudspersons* of the Division of Juvenile
22 ~~Justice-Ombudsperson~~.

23 224.73. (a) The Division of Juvenile ~~Justice~~ *Facilities* shall
24 ensure the safety and dignity of youth committed to its care. The
25 Division of Juvenile ~~Justice~~ *Facilities* shall provide care,
26 placement, and services to children in its custody without
27 discriminating on the basis of actual or perceived race, ethnic group
28 identification, ancestry, national origin, color, religion, sex, sexual
29 orientation, gender identity, mental or physical disability, or HIV
30 status.

31 (b) Local juvenile facilities shall ensure the safety and dignity
32 of youth in its custody. Local juvenile facility ~~administrator~~
33 *administrators* shall provide care, placement, and services to
34 children ~~in its custody~~ *the custody of the facilities* without
35 discriminating on the basis of actual or perceived race, ethnic group
36 identification, ancestry, national origin, color, religion, sex, sexual
37 orientation, gender identity, mental or physical disability, or HIV
38 status.

39 224.74. (a) The Office of the ~~Ombudsperson~~ *Ombudspersons*
40 of the Division of Juvenile Justice shall do all of the following:

1 (1) Disseminate information on the rights of children and youth
2 in the custody of the Division of Juvenile Justice and local juvenile
3 facilities *Facilities*, as provided in Section 224.71, and the services
4 provided by the office.

5 (2) Investigate and attempt to resolve complaints made by or
6 on behalf of children in the custody of the Division of Juvenile
7 Justice or local juvenile facilities *Facilities*, related to their care,
8 placement, or services.

9 (3) Decide, in its discretion, whether to investigate a complaint,
10 or refer complaints to another agency for investigation.

11 (4) Upon rendering a decision to investigate a complaint from
12 a complainant, notify the complainant of the intention to
13 investigate. If the office declines to investigate a complaint or
14 continue an investigation, the office shall notify the complainant
15 of the reason for the action of the office.

16 (5) Update the complainant on the progress of the investigation
17 and notify the complainant of the final outcome.

18 (6) Document the number, source, origin, location, and nature
19 of complaints.

20 (7) Compile and make available to the Legislature all data
21 collected over the course of the year including, but not limited to,
22 the number of contacts to the toll-free telephone number, the
23 number of complaints made, the number of investigations
24 performed by the office, the number of referrals made, and the
25 number of unresolved complaints.

26 (8) Provide a toll-free telephone number for the Office of the
27 ~~Ombudsperson~~ *Ombudspersons* of the Division of Juvenile Justice.

28 (b) (1) The Office of the ~~Ombudsperson~~ *Ombudspersons* of
29 the Division of Juvenile Justice, in consultation with *the* Chief
30 Probation Officers of California, youth advocate and support
31 groups, *and* groups representing children, families, children's
32 facilities, and other interested parties, shall develop, no later than
33 July 1, 2008, standardized information explaining the rights
34 specified in Section 224.71. The information developed shall be
35 age-appropriate.

36 (2) The Office of the ~~Ombudsperson~~ *Ombudspersons of the*
37 Division of Juvenile Justice, the counties, and other interested
38 parties may use the information developed in paragraph (1) in
39 carrying out their responsibilities to inform youth of their rights
40 provided under Section 224.71.

1 224.75. State correctional officers, staff of the Correctional
2 Standards Authority, and county juvenile facility workers shall
3 receive training on the rights of a child in the custody of the
4 Division of Juvenile ~~Justice or in~~ *Facilities or in a* local juvenile
5 ~~facilities~~ *facility* to have fair and equal access to all available
6 services, placement, care, treatment, and benefits, and to not be
7 subjected to discrimination or harassment on the basis of actual
8 or perceived race, ethnic group identification, ancestry, national
9 origin, color, religion, sex, sexual orientation, gender identity,
10 mental or physical disability, or HIV status.

11 224.76. (a) The Department of Corrections and Rehabilitation
12 and the Corrections Standards Authority shall adopt regulations
13 to implement and monitor compliance with this article.

14 (b) Each Division of Juvenile ~~Justice~~ *Facilities* and local juvenile
15 facility shall adopt a policy prohibiting harassment and
16 discrimination in conformance with this article.

17 SEC. 2. If the Commission on State Mandates determines that
18 this act contains costs mandated by the state, reimbursement to
19 local agencies and school districts for those costs shall be made
20 pursuant to Part 7 (commencing with Section 17500) of Division
21 4 of Title 2 of the Government Code.

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24 **CORRECTIONS:** _____

25 **Text—Page 6.**
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